IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

CRP.No. 130 of 2007

(Against the order on issue No.6 in O.S.No.201/2004 dated ,11.1.2007 before the court of Munsiff, Wadakanchery)

REVN. PETITIONER: DEFENDANT:
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PARUKUTTY AMMA, D/O.MADHAVI AMMA,
THEKKEKUNNATHU HOUSE, PANANGATTUKARA DESOM,
THEKKUMKARA VILLAGE, TALAPPILLY TALUK.

BY ADV. SRI.JIJO PAUL

RESPONDENTS:
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KALYANIKUTTY AMMA, D/O.MADHAVI AMMA,
THEKKEKUNNATHU HOUSE, PANANGATTUKARA DESOM,
THEKKUMKARA VILLAGE, TALAPPILLY TALUK.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**K.P.BALACHANDRAN, J.**

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C.R.P.NO.130 OF 2007

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Dated this the 7th day of February 2007

**ORDER**

What is challenged by the petitioner who is the defendant in O.S.201/04 is the order of the court below entering finding of issue no.6 to the effect that the court fee paid is sufficient. It is submitted by the counsel for the petitioner that the prayer in the suit is only for partition but that the decree for partition can be granted only in the event of the settlement deed executed by the predecessor of petitioner and respondent in favour of the petitioner being set aside and that the respondent/plaintiff can not ask for relief of partition paying court fee under Section 37(2) of the Court Fees Act read with Section 22 thereof without a prayer for setting aside the settlement deed set up by him. The question is not as to whether the respondent/plaintiff is entitled to relief of partition without setting aside the settlement deed in favour of the petitioner/defendant. Issue no.6 is only in relation to the sufficiency of court fee paid. The prayer in the suit being only for partition and when there is no prayer for setting aside the settlement deed in favour of the petitioner court fee paid

under Section 37(2) of the Court Fees Act read with 22 thereof is proper and sufficient. There is no merit in this CRP and the CRP is dismissed.

**K.P.BALACHANDRAN, JUDGE**

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